Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-893

CARL MILLER, ET AL., *Appellants*

v.

THE HONORABLE GERALD HEFFERNAN,
STATE TAX COMMISSIONER, *Appellee.*

ON APPEAL FROM THE SUPREME COURT OF CONNECTICUT

APPELLEE'S OBJECTION TO MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

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Attorneys for Appellee

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Pursuant to this Court's Rule 42, Appellee hereby objects to the motion of the Salisbury Taxpayers Association for leave to file a brief as amicus curiae. Appellee has not consented to this filing and objects to the motion for leave to file for several reasons.

First, appellants are adequately represented. The appellants and their counsel are fully qualified to represent their own immediate interest and that of others who may be interested in the resolution of this appeal.

Secondly, Salisbury Taxpayers Association cannot contribute any new aspect or facet to this appeal. Their presence would only unduly complicate the proceeding. The issues in

this case are clear and well defined. As an amicus curiae, the Salisbury Taxpayers Association does not possess any unique ability or knowledge which is outside the expertise of the parties.

Thirdly, the named plaintiffs are the same type of person as the members of the movant's association; namely, "elderly retired people [who] feel that the Dividends Tax portion of Chapter 224 of the Connecticut General Statutes discriminates against them". (Amicus Curiae Motion P. II).

Fourthly, the movant seeks to expand and argue issues that were not part of the original complaint, nor part of the written or oral argument before the Supreme Court of Connecticut. *Cardinale* v. *Louisiana*, 394 U.S. 437, 439.

Finally, Salisbury Taxpayers Association has no clear and compelling interest in this case other than the general reason of "the interest of the broad spectrum of persons who are directly affected by [the decision of the Connecticut Supreme Court] including the taxpayers represented by the [movant]". (Amicus Curiae Motion P. III). It is not a party to nor does it represent a party in any other proceeding concerning this tax. In view of the more compelling and personal interest of the appellants their brief will contain a complete and exhaustive argument on the issues presented rendering any other briefs unnecessary.

Respectfully submitted,

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PROOF OF SERVICE

I, Ralph G. Murphy, one of the Attorneys for the Appellee herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 2nd day of February, 1978, I served a copy of the foregoing Motion to Dismiss or Affirm on counsel of record for the Appellants counsel for Connecticut Legal Fund and counsel for the Salisbury Taxpayers Association herein by mailing a copy, with first class postage prepaid, addressed to counsel of record at their post office addresses.

RALPH G. MURPHY
Assistant Attorney General